

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	Case No. 13-cv-1923
Plaintiff,)	
)	
v.)	
)	
JERRY W. ROGERS,)	
LINDA J. ROGERS,)	
EAGLE BANK & TRUST CO. OF)	
MISSOURI, and)	
MISSOURI DEPARTMENT OF)	
REVENUE,)	
)	
Defendants.)	
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COMPLAINT

Plaintiff United States brings this complaint against the above-named defendants to (1) reduce to judgment federal tax assessments against Defendants Jerry W. Rogers and Linda J. Rogers; (2) enforce federal tax liens against certain real property described herein and located in Jefferson County, Missouri; (3) obtain an order authorizing the sale of the subject property; and (4) have the proceeds from the sales distributed in amounts determined by the Court.

Jurisdiction and Venue

1. Under 26 U.S.C. §§ 7401 and 7403, this action to reduce to judgment the tax assessments made against Jerry W. Rogers and Linda J. Rogers and to enforce the liens of the United States upon certain real property has been requested and

authorized by the Chief Counsel of the Internal Revenue Service and is brought at the direction of a delegate of the Attorney General of the United States.

2. The Court has jurisdiction over this case under 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402 and 7403.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), because it is located in the district in which Jerry W. & Linda J. Rogers, the defendants whose tax liability is at issue, reside. The real property that is the subject of this action is located in Jefferson County, Missouri, within the jurisdiction of this Court.

Defendants

4. Defendants Jerry W. and Linda J. Rogers are married and reside in House Springs, Missouri. Jerry W. and Linda J. Rogers have failed to make sufficient payments to pay assessed personal income tax liabilities, penalties, and interest for several years.

5. Jerry W. Rogers operates a sole proprietorship, Jerry W. Rogers Insurance, at 2795 High Ridge Boulevard in High Ridge, Missouri.

6. Eagle Bank and Trust Co. of Missouri (“Eagle Bank”) is named as a party pursuant to I.R.C. § 7403(b), because it may claim an interest in the subject real property.

7. The Missouri Department of Revenue is named as a party pursuant to 26 U.S.C. § 7403(b), because it may claim an interest in the subject real property.

Count I: Jerry W. and Linda J. Rogers’s Income Tax Liabilities

8. The United States repeats the allegations contained in paragraphs 1 through 5 of this Complaint as if fully and separately stated herein.

9. Jerry W. and Linda J. Rogers filed their federal income tax returns (Form 1040) with the Internal Revenue Service for years 2002, 2006, and 2007. Jerry W. and Linda Rogers also filed late tax returns for years 2005, 2008, 2009, 2010, and 2011. For all of those years, Jerry W. and Linda Rogers used the status married filing jointly, reported federal income tax due on each of these returns, but failed to pay the amounts they reported were due.

10. On the dates listed below, a delegate of the Secretary of Treasury made assessments against Jerry W. and Linda J. Rogers for unpaid income tax and statutory additions to tax as follows:

Year	Date of Assessment	Taxes Assessed on Date of Assessment	Penalties and Interest Assessed on Date of Assessment	Amount Owed (as of September 1, 2013)
2002	11/10/2003	\$10,486.00	\$882.37	\$15,066.82
2005	05/21/2007	\$3,457.00	\$1,405.06	\$6,107.75
2006	05/21/2007	\$2,786.00	\$181.21	\$3,893.44
2007	11/17/2008	\$2,346.00	\$242.36	\$1,673.45
2008	02/08/2010	\$6,091.00	\$1,371.86	\$8,050.81
2009	12/27/2010	\$6,304.00	\$666.50	\$4,033.59

Year	Date of Assessment	Taxes Assessed on Date of Assessment	Penalties and Interest Assessed on Date of Assessment	Amount Owed (as of September 1, 2013)
2010	01/09/2012	\$8,048.00	\$1,182.20	\$7,822.55
2011	11/19/2012	\$9,982.00	\$637.18	\$6,340.01
			Total:	\$52,988.42

11. An additional federal income tax assessment against Jerry W. and Linda J. Rogers for the 2003 tax year was made pursuant to an examination. On February 6, 2006, a delegate of the Secretary of Treasury made an assessment against Jerry W. and Linda J. Rogers for unpaid income tax and statutory additions to tax as follows: \$7,150.00 tax assessed on date of assessment, and \$2,331.44 in penalties and interest. As of September 1, 2013, the current balance of the assessment for tax year 2003 is \$13,966.79.

12. The assessments referred to in paragraphs 10 and 11 were made in accordance with law.

13. Notices of the assessments referred to in paragraphs 10 and 11, and demands for payment were sent to Jerry W. and Linda J. Rogers on or about the dates the assessments were made.

14. Jerry W. and Linda J. Rogers neglected, failed and refused to pay the

assessed federal income tax liabilities described in paragraphs 10 and 11, and therefore, remain indebted to the United States for the unpaid balance plus statutory additions and interest accruing according to law from the dates of assessment.

WHEREFORE, the United States respectfully requests that the Court enter judgment on count I of this complaint jointly and severally against Jerry W. and Linda J. Rogers for \$66,955.21, plus interest and statutory additions accruing after September 1, 2013, until paid.

COUNT II: Jerry W. Rogers's Employment Tax Liabilities

15. The United States repeats the allegations contained in paragraphs 1-3, 5 of this Complaint as if fully and separately stated herein.

16. For the tax periods, and in the amounts set forth below, a delegate of the Secretary of the Treasury timely made assessments against Jerry W. Rogers for the following employment (Form 944) and unemployment (Form 940) taxes, and a civil penalty under 26 U.S.C. § 6721 for failure to file W-2 and W-3 information returns, plus related statutory additions to tax:

Tax Type	Tax Period	Dates of Assessment	Amount Assessed on Dates of Assessment	Amount Owed (as of 9/1/13)
940	12/31/2003	02/02/2009	\$214.70	\$225.03
940	12/31/2005	02/02/2009	\$75.40	\$80.56
940	12/31/2008	10/19/2009	\$41.25	\$99.86

Tax Type	Tax Period	Dates of Assessment	Amount Assessed on Dates of Assessment	Amount Owed (as of 9/1/2013)
26 U.S.C. § 6721 Civil Penalty	12/31/2003	12/04/2006	\$2,675.99	\$2,954.92
26 U.S.C. § 6721 Civil Penalty	12/31/2008	8/29/2011	\$1,547.00	\$1,661.90
26 U.S.C. § 6721 Civil Penalty	12/31/2001	9/27/2004	\$3,966.00	\$5,039.16
944	12/31/2007	12/21/2009	\$5,381.84	\$4,767.52
944	12/31/2008	11/02/2009	\$4,839.42	\$5,335.62
944	12/31/2009	7/04/2011	\$4,748.22	\$3,911.35
			Total:	\$24,075.92

17. The assessments referred to in paragraph 16 were made in accordance with law.

18. Notices of the assessments referred to in paragraph 16, above, and demands for payment were sent to Jerry W. Rogers on or about the dates of assessment.

19. Jerry W. Rogers has neglected, failed and refused to pay the assessed business tax liabilities described in paragraph 16, and therefore, remains indebted

to the United States for the unpaid balance plus statutory additions and interest accruing according to law from the dates of assessment.

WHEREFORE, the United States respectfully requests that the Court enter judgment on count II of this complaint against Jerry W. Rogers for \$24,075.92, plus interest and statutory additions accruing after September 1, 2013, until paid.

Count III: Enforcement of Federal Tax Liens Against Certain Real Property

20. The United States repeats the allegations contained in paragraphs 1 through 19 of this Complaint as if fully and separately stated herein.

21. The United States seeks to foreclose federal tax liens encumbering real property located at 2795 High Ridge Boulevard in High Ridge, Missouri, and legally described as:

All of Lot Two (2) of FRANK C. BURIAN'S SUBDIVISION, a subdivision as shown by plat on file in the Recorder's Office of Jefferson County, Missouri, in plat book 7, page 20.

LESS and EXCEPTING therefrom that part said Lot Two (2) conveyed to Leroy Miller and wife by deed recorded in book 283, page 498.

22. Jerry W. and Linda J. Rogers acquired the subject real property described in paragraph 21 as husband and wife by general warranty deed on March 26, 1991.

23. Federal tax liens arose on the dates of assessment described in paragraphs 10, 11 and 16 under 26 U.S.C. §§ 6321 and 6322, and attached to all property attached to all property and rights to property of Jerry W. and Linda J. Rogers, including the subject real property described in paragraph 21.

24. On the dates set forth below, the Internal Revenue Service recorded notices of federal tax lien in Jefferson County, Missouri, relating to the tax liabilities described in paragraphs 10 and 11: (a) on September 1, 2006 (for the 2002 and 2003 liabilities); (b) on May 29, 2008 (for the 2005 and 2006 liabilities); (c) on March 5, 2010 and July 21, 2010 (for the 2007 and 2008 liabilities); (d) on April 29, 2011 (for the 2009 liability); (e) on January 31, 2012 (for the 2010 liability); and (f) on December 7, 2012 (for the 2012 liability).

25. On the dates set forth below, the Internal Revenue Service recorded notices of federal tax lien in Jefferson County, Missouri, relating to the tax liabilities described in paragraph 16: (1) June 30, 2009 (for the 940 liabilities for the tax periods ending 12/31/2003 and 12/31/2005, and for the § 6721 penalties for the tax periods ending 12/31/2001 and 12/31/2003); (b) on December 1, 2009 (for the 940 and 944 liabilities for the tax period ending 12/31/2008); (c) on February 22, 2010 (for the 944 liability for the tax period ending 12/31/2007); (d) on September 2, 2011 (for the 944 liability for the tax period ending 12/31/2009); and (e) October 7, 2011 (for the § 6721 penalty for the tax period ending 12/31/2008).

26. On November 5, 2004, Eagle Bank filed a Deed of Trust in Jefferson County, Missouri, concerning the subject real property referenced in paragraph 21. No release of this Deed of Trust has been filed and, therefore, Eagle Bank may claim an interest in the subject real property.

27. Defendant Missouri Department of Revenue has various assessments against Jerry W. and Linda J. Rogers for unpaid sales and withholding taxes, encumbering the subject real property described in paragraph 21, and, therefore, the Missouri Department of Revenue may claim an interest in the subject real property.

WHEREFORE, the United States respectfully requests the following relief on count III of this complaint, as follows:

- a. That a declaratory judgment be entered that the federal tax liens described above are valid and subsisting liens, and attach to all property and rights to property of Jerry W. and Linda J. Rogers, including the subject real property described in paragraph 21;
- b. That the Court order, adjudge and decree that the federal tax liens, described above, be enforced and foreclosed against the subject real property described in paragraph 21;
- c. That the Court order, adjudge and decree that the subject real property described in paragraph 21 be sold publicly or privately, and free and clear of any and all liens;
- d. That the Court order and decree that any defendant claiming an interest in the sale proceeds superior to the federal tax liens affirmatively demonstrate that interest;

e. That the Court award the proceeds (or portions thereof if there is a lien found to be superior to those of the United States) from the sale of the subject real property described in paragraph 21 to the United States; and

f. That the Court grant the United States such other and further relief as it deems just and proper, including awarding the plaintiff its costs and expenses incurred herein.

Dated: September 27, 2013.

Respectfully Submitted,

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